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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,709

04/05/2006

Walter Wolf

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FOLEY AND LARDNER LLP

SUITE 500

3000 K STREET NW

WASHINGTON, DC 20007

EXAMINER

HERNANDEZ, MICHAEL

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

03/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,709

Applicant(s)

WOLF, WALTER

Examiner

MIKE HERNANDEZ

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-08)
Paper No(s)/Mail Date 12/07/07 & 1/15/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1 through 14, 19, and 20 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 has been amended to read, "[holes] which are arranged in rows and/or columns". The term 'and/or', as discussed in the previous action, is indefinite by claiming ambiguously alternative structure. It is suggested that the alternatives be written out in a Markush style group (See MPEP 2173.05(h)).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1 through 9, and 12 through 20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,921,127 to Feith et al. in view of US Pat No 6,739,673 to Gupta et al.

Regarding claim 1, Feith et al. discloses a structural element, in particular a cross member for arranging between A-pillars of a motor vehicle, with a basic body 14 which

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is essentially designed as a hollow profile and is provided on the inside with a plastic core 22 forming at least on duct 24.

Feith et al. fails to disclose the basic body being perforated.

Gupta et al. teaches (Fig 18) a structural element wherein a basic body is designed such that it is at least partially perforated. Gupta et al. clearly shows a row of holes 186 in Fig 18, which form a pattern.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device described by Feith et al. with perforations, as taught by Gupta et al., in order to create a vent opening and reduce weight.

As to claim 2, Gupta et al. teaches (Col 19 Ln 59-63) the perforations are used as a vent opening.

As to claim 3, Feith et al. discloses the basic body is made of sheet metal.

As to claim 4, Gupta et al. teaches the perforations are formed from perforated sheet metal.

As to claim 5, Feith et al. discloses two half bodies 116,118 form the basic body.

As to claim 6, Feith et al. discloses the two half bodies are held together by the plastic core.

As to claim 7, Feith et al. discloses the two half bodies are additionally connected mechanically 140.

As to claims 8 and 9, Gupta et al. teaches perforations in an opening region of one half body. Inclusion of perforations over the second half body is simply duplication of parts and is not patentably distinguishable over the prior art. Additionally, the

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perforations are used for venting air and weight reduction, both motivations being taught by Gupta et al., and it is an obvious expedient to include vents wherever air is desired to be directed.

As to claim 12, Feith et al. discloses a plurality of openings spaced in the longitudinal direction.

As to claim 13, Feith et al. discloses the duct has a plurality of chambers 128.

As to claim 14, Feith et al. discloses housing parts 36 of an HVAC system integrally formed on the edges and bear against the basic body.

As to claims 15 and 16, Feith et al. discloses the structural element is an instrument panel support in a vehicle and the duct is an air-conditioning duct and air is supplied to the windows.

As to claims 17 and 18, Feith et al. discloses a method of producing a structural element wherein a basic body is placed in a mold and the plastic core is injection molded in a single method step and the plastic is injection molded.

As to claims 19 and 20, Gupta shows (Fig 18) the openings can be of nearly any size or shape (including circular). The shape of the holes are an obvious design choice and do not patently affect the function of the device.

5. **Claims 10 and 11 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Feith et al. with Gupta et al. as applied to claim 1 above, and further in view of US Pat No 6,305,733 to Rahmstorf et al.

Feith et al. with Gupta et al. discloses a structural element as applied to the previous claims, however fails to disclose a reinforcing element.

Rahmstorf et al. teaches (Fig 1) a structural element having two half bodies 1,3 wherein a reinforcing element 43 is arranged parallel to the plane of separation of the two bodies.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device described by Feith et al. with Gupta et al. with a reinforcing element, as taught by Rahmstorf et al., in order to add support to the structural element and channel air within the duct.

Response to Arguments

6. Applicant's arguments filed 1/15/08 have been fully considered but they are not persuasive. Applicant has argued that there is no motivation to combine the Feith and Gupta reference. Examiner asserts that both references are directed towards cross car beams that are used to conduct air as Gupta explicitly states, "The panels preferably are configured with suitable openings 186 **or** molded attachment structures 188 **adapted for** receiving one or more instruments, gauges, or other components, **or communicating air to a vent opening into the passenger compartment**" (Col 19 Ln 59-63 with emphasis added). Applicant also argues that the openings 186 of Gupta cannot, in any way, be considered perforations. The dictionary definition of 'perforation' is, "a hole or pattern made by or as if by piercing or boring" (Merriam-Webster Dictionary). Not only can the openings 186 of Gupta be considered holes, but they in fact perform the exact same function as the holes of the present application. Therefore, the Gupta reference is considered to clearly anticipate this feature.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MIKE HERNANDEZ whose telephone number is (571)272-2354. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MIKE HERNANDEZ/
Examiner, Art Unit 3612

/Dennis H. Pedder/
Primary Examiner, Art Unit 3612